

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:13-CV-00257**

**THE NORTH FACE APPAREL CORP.
and
VF OUTDOOR, INC.**

Plaintiffs,

v.

**EYAL ALLEN DAHAN, individually and
d/b/a CAVALIER, CAVALIER
SPORTSWEAR, CAVALIER APPAREL,
CAVALIER CLOSEOUTS, and LE
CAVALIER JEANS & SPORTSWEAR;**

**JASON DAHAN, individually and
d/b/a CAVALIER, CAVALIER
SPORTSWEAR, CAVALIER APPAREL,
CAVALIER CLOSEOUTS, and LE
CAVALIER JEANS & SPORTSWEAR;**

**CAVALIER SPORTSWEAR, INC., a
California corporation;**

**CAVALIER CLOSEOUTS, INC., a
California Corporation, d/b/a
CAVALIER, INC., CAVALIER SPORTS,
INC., and CAVALIER APPAREL, INC.;**

and

JOHN DOES 1-10,

Defendants.

**DEFENDANTS'
MOTION TO DISMISS FOR
LACK OF PERSONAL
JURISDICTION**

Defendants Eyal Allen Dahan, and Cavalier, Cavalier Sportswear, Cavalier Apparel, Cavalier Closeouts, and LE Cavalier Jeans & Sportswear; Cavalier Sportswear,

Inc.; and Cavalier Closeouts, Inc. (collectively, “Cavalier”), by counsel specially appearing, respectfully move this Court, pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure, to dismiss this action for lack of personal jurisdiction.

Cavalier is a resident of California and its principal place of business and operation of business is conducted substantially and primarily in the state of California, and Cavalier lacks sufficient contacts, if at all, with North Carolina to confer personal jurisdiction over Cavalier. Plaintiffs The North Face Corporation (“TAC”) and VF Outdoor Inc. (“VF Outdoor”) (collectively, “Plaintiffs” or “The North Face”) filed this action alleging that Cavalier “purposefully directed their unlawful and damaging commercial activity into the State of North Carolina and into this judicial district, and because Defendants (sic) unlawful commercial activity has damaged Plaintiffs in this judicial district.”

However, the North Carolina long-arm statute does not authorize this Court’s exercise of personal jurisdiction over Cavalier. Cavalier is a nonresident that does not engage in any activities in North Carolina that would confer jurisdiction over Cavalier. Moreover, because Cavalier’s alleged activities that comprise the basis of Plaintiffs’ Complaint did not take place in North Carolina and were not directed into North Carolina, Plaintiffs cannot establish a basis for this Court to assert specific jurisdiction over Cavalier. Further Cavalier did not consent to personal jurisdiction in North Carolina.

Cavalier lacks the requisite minimum contacts with North Carolina, and hailing Cavalier into court in North Carolina would violate due process. The Court lacks jurisdiction over Cavalier and the case against them should be dismissed in its entirety.

The specific grounds upon which this Motion to Dismiss is based and the points of authority in support hereof are set forth in the Memorandum in Support of Motion to Dismiss, which is filed contemporaneously herewith and incorporated herein.

WHEREFORE, defendants Eyal Allen Dahan; Cavalier Sportswear, Inc.; and Cavalier Closeouts, Inc. respectfully request that this Court dismiss Plaintiffs' Complaint against them for lack of personal jurisdiction, and grant such other and further relief as it deems just and proper.

This the 10th day of June 2013.

**EYAL ALLEN DAHAN, CAVALIER
SPORTSWEAR, INC., and
CAVALIER CLOSEOUTS, INC.**

By Spilman Thomas & Battle, PLLC

/s/ R. Scott Adams

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CERTIFICATE OF SERVICE

I, R. Scott Adams, counsel for defendants, certify that on June 10, 2013, I electronically filed the foregoing ***MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION*** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following.

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